

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**CLERMONT, et al.,**

**Plaintiffs,**

**v.**

**BROWN, et al.,**

**Defendants.**

**Civil Action No. 08-4257 (MLC)**

**ORDER**

This matter having been opened to the Court upon Motion by David Yi, Esq. (“Yi”), attorney for Defendants seeking an extension of time to file an Answer to Plaintiffs’ Complaint pursuant to FED.R.CIV.P. 6(b)(2); and Defendants arguing that Plaintiffs filed their Complaint on August 22, 2008 and effectuated service of the Summons and Complaint on Defendants as follows: Defendant Bollheimer (“Bollheimer”) was served on September 4, 2008, Defendant New Jersey Department of Corrections (“NJDOC”) was served on September 17, 2008, and Defendants Brown (“Brown”) and Murphy (“Murphy”) have not yet been served; and Defendants further arguing that Bollheimer forwarded a copy of Plaintiffs’ Summons and Complaint along with a request for legal representation to the Office of the Attorney General of New Jersey (the “AG”); and Defendants further arguing that Brown and Murphy have not yet requested legal representation from the AG presumably because they have not yet been served with Plaintiffs’ Summons and Complaint; and Defendants further arguing that representation by the AG is not automatic, but rather the AG must investigate Plaintiffs’ allegations to determine whether representation of Defendants by the AG is appropriate; and Defendants further arguing that on October 8, 2008, Yi was assigned to represent Defendants in this matter; and Defendants further arguing that the AG’s investigation of the matters alleged by Plaintiffs is still ongoing; and

Defendants further arguing that their failure to timely file an answer or otherwise respond to Plaintiffs' Complaint was not due to neglect on their parts, but resulted from the AG's necessary investigation into whether that office should represent Defendants in this matter; and Plaintiffs having not opposed Defendants' Motion; and the Court noting that the Court analyzes Defendants' Motion for an extension of time to respond to Plaintiffs' Complaint, which was filed after at least certain Defendants' Answer or other response was due, under FED.R.CIV.P. 6(b)(1)(B) not 6(b)(2); and the Court finding that extensions of time pursuant to FED.R.CIV.P. 6(b)(1)(B) are routinely granted upon a showing of cause where the parties' failure to timely act appears to have been the result of "excusable neglect"; and the Court further finding that here Defendants' failure to timely answer or otherwise respond to Plaintiff's Complaint was the result of excusable neglect; and the Court having considered this matter pursuant to FED.R.CIV.P. 78, and for good cause shown,

IT IS on this 17<sup>th</sup> day of November, 2008,

ORDERED that Defendants' Motion for an extension of time to answer, move or otherwise reply to Plaintiff's Complaint is GRANTED; and it is further

ORDERED that Defendants shall answer, move or otherwise reply to Plaintiff's Complaint on or before **January 16, 2009**; and it is further

ORDERED that the Clerk of the Court terminate this Motion [Docket Entry No. 3] accordingly.

s/Tonianne J. Bongiovanni  
**HONORABLE TONIANNE J. BONGIOVANNI**  
**UNITED STATES MAGISTRATE JUDGE**